

**HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
And
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY**

W.A. NO.738 OF 2006

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Between:

The Principal Secretary to Government,
School Education Department, Secretariat,
Andhra Pradesh, Hyderabad and 2 others.

..... Appellants

AND

Sonkamble Vandana

.....Respondent

::JUDGMENT::

**Counsel for the Appellants : Government Pleader for
School Education**

Counsel for Respondent : Sri S.Chandrasekhar

Dated 4/7/2006

Per Sri G.S.Singhvi, CJ

This appeal is directed against order dated 10.4.2006 passed by the learned Single Judge in Writ Petition No.17812 of 2005, whereby he directed the non-petitioners in the writ petition (appellants herein) to declare the result of the petitioner's examination of Hindi Pandit Training Course.

Respondent Sonkamble Vandana passed MA in Hindi and Bachelor of Physical Education. She was appointed as a lecturer on contract basis in Government Junior College at Thamsi, Adilabad District. In 2003, she successfully appeared in Language Pandit Common Entrance Test and secured admission in Hindi Pandit Training College, Zaheerabad. At the end of the course, she was allowed to take the examination. However, her result was withheld on the pretext that she does not fulfil the condition of 80% attendance as laid down in Regulation 3(2) of the Regulations framed for Hindi Pandit Course. This necessitated filing of the writ petition by the respondent who pleaded that after having allowed her to take the examination, the respondents cannot withhold the result on the premise that she does not fulfill the condition incorporated in Regulation 3(2) of the Regulations.

Learned Single Judge, after noticing the pleadings of the parties and Regulation 3(2), held that once the writ petitioner was allowed to take the examination, the non-petitioners cannot withhold her result.

Learned Government Pleader for School Education reiterated the contention raised on behalf of his clients before the learned Single Judge and urged that the order under challenge should be set aside else it will become a precedent for other cases. He emphasized that in terms of Regulation 3(2), a trainee is required to have minimum 80% attendance before he/she can be allowed to appear in the examination and as the

respondent had only 73% attendance, no illegality was committed by withholding her result. He submitted that the respondent is not entitled to the benefit of 10% relaxation of attendance envisaged under Regulation 3(2) because she did not submit application either to the Principal or the Commissioner and Director of Education for grant of relaxation.

In our opinion, there is no merit in the arguments of the learned Government Pleader. It is neither the pleaded case of the appellants nor it has been suggested during the arguments that the respondent had made any misrepresentation at the time of filling the examination form or that she had manipulated issue of hall ticket in connivance with the Principal of the Institute or any other higher authority of the department. It is therefore reasonable to presume that the concerned authority had issued hall ticket after scrutinizing the papers submitted by the respondent and satisfying that she fulfils the conditions of eligibility. In this view of the matter, it was not open to the appellants to withhold the result of the respondent's examination and we do not find any reason to upset the order passed by the learned Single Judge.

We are further of the view that the decision of the appellant's to withhold the result of examination tantamounts to cancellation of her candidature. This, the appellants could not have done without giving her action oriented notice and opportunity of hearing. If the respondent had been informed in advance that she is not eligible on account of shortage of attendance, she could have submitted applications to the Principal of the Institute and Commissioner and Director of Education for grant of relaxation in terms of Regulation 3(2), which reads as under:

“The trainees shall put in a minimum of 80% of attendance to be eligible for appearing at the final examination. A condition of shortage of attendance up to 5% may be allowed on approval by the concerned principal of the institution, and, another 5% by the Commissioner and Director of School Education, A.P., Hyderabad on medical grounds.”

At this stage, we do not propose to make a guess work whether or not the concerned authorities would have accepted the application but the

fact of the matter is that she was not given an opportunity to avail the benefit of relaxation up to 10% of the attendance. Therefore, by applying the ratio of the Supreme Court's judgment in **Board of High School and Intermediate Education v. Chitra Srivastav**^[1] we hold that the action taken by the appellants not to declare the result of the respondent's examination was wholly arbitrary and vitiated due to violation of rules of natural justice and the learned Single Judge did not commit any error by directing them to declare the result.

For the reasons mentioned above, the appeal is dismissed.

While dismissing the appeal, we deem it proper to take cognizance of the statement made by the learned Government Pleader that the result of the respondent's examination is being declared today.

G.S.SINGHVI, CJ

Dt.4.7.2006

G.V.SEETHAPATHY, J

msv/svs

^[1] AIR 1970 SC 39